

Hearing Date: May 17, 2023 at 10:00am (prevailing Eastern Time)  
Objection Deadline: May 10, 2023 at 4:00pm (prevailing Eastern Time)

Daniel A. Frishberg  
Immanuel J. Herrmann  
*Pro Se Customer-Appellants*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

|   |   |                        |
|---|---|------------------------|
|   | ) |                        |
| In re:  | ) | Chapter 11             |
|   | ) |                        |
| CELSIUS NETWORK LLC, <i>et al.</i> , <sup>1</sup> | ) | Case No. 22-10964 (MG) |
|   | ) |                        |
| Debtors.  | ) | (Jointly Administered) |
|   | ) |                        |

**NOTICE OF HEARING ON CUSTOMER-APPELLANTS' MOTION  
TO EXPEDITE TRANSMITTAL OF THE RECORD ON APPEAL TO  
THE DISTRICT COURT**

**PLEASE TAKE NOTICE** that a hearing on *Customer-Appellants' Motion to Expedite Transmittal of the Record on Appeal to the District Court* will be held on May 17, 2022 at 10:00am (prevailing Eastern Time) (the "Hearing").

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Celsius Network LLC (2148); Celsius KeyFi LLC (4414); Celsius Lending LLC (8417); Celsius Mining LLC (1387); Celsius Network Inc. (1219); Celsius Network Limited (8554); Celsius Networks Lending LLC (3390); Celsius US Holding LLC (7956); GK8 Ltd. (1209); GK8 UK Limited (0893); and GK8 USA LLC (9450). The location of Debtor Celsius Network LLC's principal place of business and the Debtors' service address in these chapter 11 cases is 50 Harrison Street, Suite 209F, Hoboken, New Jersey 07030.

**PLEASE TAKE FURTHER NOTICE** that in accordance with General Order M-543 dated March 20, 2020, the Hearing will be conducted remotely using Zoom for Government. Parties wishing to appear at the Hearing, whether making a “live” or “listen only” appearance before the Court, need to make an electronic appearance through the Court’s website at <https://ecf.nysb.uscourts.gov/cgi-bin/nysbAppearances.pl>. Electronic appearances (eCourtAppearances) need to be made by 4:00 p.m. (prevailing Eastern Time), the business day before the hearing (i.e., on May 16, 2023).

**PLEASE TAKE FURTHER NOTICE** that due to the large number of expected participants in the Hearing and the Court’s security requirements for participating in a Zoom for Government audio and video hearing, all persons seeking to attend the Hearing at 10:00 a.m. (prevailing Eastern Time) on May 17, 2022, must connect to the Hearing beginning at 9:00 a.m. (prevailing Eastern Time) on May 17, 2022. When parties sign in to Zoom for Government and add their names, they must type in the first and last name that will be used to identify them at the Hearing. Parties that type in only their first name, a nickname or initials will not be admitted into the Hearing. When seeking to connect for either audio or video participation in a Zoom for Government Hearing, you will first enter a “Waiting Room,” in the order in which you seek to connect. Court personnel will admit each person to the Hearing from the Waiting Room after confirming the person’s name (and telephone number, if a telephone is used to connect) with their eCourtAppearance. Because of the large number of expected participants, you may experience a delay in the Waiting Room before you are admitted to the Hearing.

**PLEASE TAKE FURTHER NOTICE** that any responses or objections to the relief requested in the Motion shall: (i) be in writing; (ii) conform to the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Southern District of New York, and all General Orders applicable to chapter 11 cases in the United States Bankruptcy Court for the Southern District of New York; (iii) be filed electronically with the Court on the docket of *In re Celsius Network LLC*, No. 22-10964 (MG) by registered users of the Court's electronic filing system and in accordance with all General Orders applicable to chapter 11 cases in the United States Bankruptcy Court for the Southern District of New York (which are available on the Court's website at <http://www.nysb.uscourts.gov>); and (iv) be served so as to be actually received by May 10, 2023, at 4:00 p.m. (prevailing Eastern Time), by (a) via electronic mail at [immanuelherrmann@gmail.com](mailto:immanuelherrmann@gmail.com), (b) to the entities on the Master Service List available on the case website of the above-captioned debtors at <https://cases.stretto.com/celsius>, and (c) to any person or entity with a particularized interest in the subject matter of the Motion.

**PLEASE TAKE FURTHER NOTICE** that only those responses or objections that are timely filed, served, and received will be considered at the Hearing. Failure to file a timely objection may result in entry of a final order granting the Motion as requested by Daniel A. Frishberg and Immanuel J. Herrmann.

**PLEASE TAKE FURTHER NOTICE** that copies of the Motion and other pleadings filed in these chapter 11 cases may be obtained free of charge by visiting the website of Stretto at <https://cases.stretto.com/celsius>. You may also obtain copies of the Motion and other pleadings

filed in these chapter 11 cases by visiting the Court's website at <http://www.nysb.uscourts.gov> in accordance with the procedures and fees set forth therein.

Respectfully submitted,

/s/ Daniel A. Frishberg

Daniel A. Frishberg

*Pro Se*

April 26, 2023

/s/ Immanuel Herrmann

Immanuel Herrmann

*Pro Se*

April 26, 2023

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| In re:  | ) | Chapter 11             |
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| CELSIUS NETWORK LLC, <i>et al.</i> , <sup>2</sup> | ) | Case No. 22-10964 (MG) |
|   | ) |                        |
| Debtors.  | ) | (Jointly Administered) |
|   | ) |                        |

**CUSTOMER-APPELLANTS' MOTION TO EXPEDITE TRANSMITTAL  
OF THE RECORD ON APPEAL TO THE DISTRICT COURT**

Immanuel J. Herrmann and Daniel A. Frishberg—Celsius Network LLC, *et al.* customers (the “Customer-Appellants”)—hereby submit this Motion (the “Motion”) to expedite transmittal of the record for our appeal of the *Order Regarding Which Debtor Entities Have Liability for Customer Claims Under the Terms of Use* (the appeal of the “Customer Claims Order”) Case No. 23-cv-03144 (S.D.N.Y. 2023) [rel. 23-cv-02882 (S.D.N.Y. 2023)] to the United States District Court for the Southern District of New York, and to resolve disputes about the record on appeal under Rule 8009, if any, at the May 17 Omnibus hearing. In support of their Motion,

Creditor-Appellants respectfully state as follows:

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<sup>2</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Celsius Network LLC (2148); Celsius KeyFi LLC (4414); Celsius Lending LLC (8417); Celsius Mining LLC (1387); Celsius Network Inc. (1219); Celsius Network Limited (8554); Celsius Networks Lending LLC (3390); Celsius US Holding LLC (7956); GK8 Ltd. (1209); GK8 UK Limited (0893); and GK8 USA LLC (9450). The location of Debtor Celsius Network LLC’s principal place of business and the Debtors’ service address in these chapter 11 cases is 50 Harrison Street, Suite 209F, Hoboken, New Jersey 07030.

**RELIEF REQUESTED**

The Creditor-Appellants respectfully request, pursuant to Fed. R. Bankr. P. 8019, that the Court enter an order ordering the Clerk of the Bankruptcy Court to expedite preparation of the record and transmit a copy of the record on appeal to the Clerk of the U.S. District Court for the Southern District of New York on May 17—if it has not already been transmitted by that date.

It is no understatement to say that the outcome of the issue of which entities customers have claims against will profoundly impact the outcome and litigation schedule of these cases. Aside from the Preferred Series B, no *customers* are interested in litigating matters of substantive consolidation between Celsius Network Ltd. and Celsius Network LLC as proposed in the Debtors' plan, nor the amount of the inter-company claims, nor constructive fraudulent transfer claims.

This appeal, along with substantive consolidation and intercompany claims, have now become gating issues to our emergence from Chapter 11 (which the Preferred Series B Holders would like to delay as for as long as possible so that their well-heeled clients can extract as much money from retail and non-accredited investors as possible).

Creditor-Appellants, and all customers, suffer and will continue to suffer irreparable harm unless expedited review is granted, and we intend to file a Motion asking for expedited appellate review in the District Court upon transmission of the record on appeal (and are contemplating,

and reserve the right to, after consulting with the UCC, asking for a compressed briefing schedule as well.)

Under standard timeframes, months may pass before these issues are finally adjudicated, and this appeal is likely to be mooted or subsumed in the Plan Confirmation process. Without appellate review, the Celsius Chapter 11 plan could violate the absolute priority rule (if the Customer Claims decision would have been overturned). By then, we also likely will have spent tens of millions of dollars<sup>3</sup> in unnecessary litigation (if the Customer Claims decision is later overturned but we are months into substantive consolidation, inter-company-claims litigation, and class claims matters). This is truly a situation where rights delayed are rights denied and expediting the process at each step, from transmission of the record to the district's review, is crucial.

An expedited appeal in the District Court, which the Customer-Appellants' plan to petition for, is also *essential* to ensure that this appeal is not rendered moot by the Debtors' proposed confirmation timetable and any contemplated settlement with the Preferred Shareholders, which, again, violates the absolute priority rule if the Customer Claims Decision is overturned. Regardless of how the District Court rules, the Bankruptcy Court can do its part to make sure that the appeal moves along by expediting transmission of the record.

Barring fast action by the Courts in this matter, the Debtors and the UCC may be forced to settle the preferred matter to move forward with plan consummation if our appeal is not heard timely, to our (and all customers') prejudice. Also, our appeal is much cheaper than other

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<sup>3</sup> In addition to operating costs which are reducing creditors's recovery by over \$600,000 each day.

litigations that are currently ongoing, because it doesn't require massive discovery and protracted litigation like substantive consolidation, inter-company claims, or constructive fraudulent transfer, but only the preparation of briefs and arguments. Therefore, it supports judicial economy, and finality of resolving issues before Plan Confirmation, to transmit the record briskly and keep the appeal moving.

Due to the timeframes of the auction and sale process and the Court's recent scheduling order to wrap up intercompany claims litigation by the end of July (D.R. 2150), it is essential that the Record on Appeal be finalized shortly after May 17 *at the latest* and that the Clerk of the Bankruptcy Court work to prepare, and immediately transfer, the record on appeal to the District Court.

Furthermore, to the extent that any parties have disputes with the record under Rule 8009 that they intend to adjudicate in this Court, this Motion serves as notice and the opportunity for a hearing to adjudicate such a disputes on May 17. Creditor-Appellants are available to resolve such disputes **before** this Motion's reply deadline, we will reply on the docket to any disputes filed in response to this Motion, and and we ask that the Court rule on disputes (if any) expeditiously after May 17.

It is *essential* that, if any disputes regarding the record on appeal arise, they be resolved *with finality* at or shortly after the May 17 hearing, and not seep into late May or June. To the extent that we cannot resolve such disputes outside of Court, we further request that objectors respond to the Motion and provide us—and the Court—with an item-by-item list of items they

propose to strike, giving a specific reason for striking each item, so that we may respond line-by-line *prior* to the May 17 hearing and receive a ruling and finalize the record at the May 17 hearing. Of course, we urge parties to work with us consensually on the record until the hearing, to minimize—and hopefully fully eliminate—any disputes.

To the extent that parties insist on coming to Court to adjudicate their disputes, we urge this Court to err on the side of a larger record and let the District Court sort things out—to keep things moving. Time is of the essence, and rights delayed are rights denied.

### **Reservation of Rights**

The Customer-Appellants reserve all rights, including but not limited to supplementing, amending, or re-filing this Motion.

### **Conclusion**

For the reasons set forth herein, the Customer-Appellants respectfully petition the Court to enter an Order finalizing the record on May 17 or as soon as possible thereafter—and ordering the Clerk to transmit the record on appeal to the District Court expeditiously, if it has not already been transmitted by that date.

Respectfully submitted,

/s/ Daniel A. Frishberg  
Daniel A. Frishberg  
*Pro Se*  
April 26, 2023

/s/ Immanuel Herrmann  
Immanuel Herrmann  
*Pro Se*  
April 26, 2023



**CERTIFICATE OF SERVICE**

I hereby certify that on Wednesday, April 26, 2023, I filed a true and correct copy of the *Customer-Appellants' Motion to Expedite Transmittal of the Record on Appeal to the District Court* with the Clerk of the United States Bankruptcy Court in the Southern District of New York.

I hereby further certify that on Wednesday, April 26, 2023, I served a true and correct copy of the *Customer-Appellants' Motion to Expedite Transmittal of the Record on Appeal to the District Court* upon noticed appellants, noticed appellees, and the Core/2002 service list by electronic mail in accordance with the SDNY Bankruptcy Court's *Amended Final Order (I) Establishing Certain Notice, Case Management, And Administrative Procedures, And (II) Granting Related Relief* (ECF Docket No. 1181).

Respectfully submitted,

/s/ Daniel A. Frishberg

Daniel A. Frishberg

*Pro Se*

Dated: April 26, 2023

Hillsborough County, Florida